

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN
120 North Henry Street
Post Office Box 432
Madison, Wisconsin 53703-0432

APPEAL INFORMATION PACKET

1. Seventh Circuit Transcript Information Sheet

The appellant shall complete a transcript form whether a transcript is ordered or not. Return the form to the DISTRICT COURT at the above address. If you are a CJA appointed attorney, please contact our office for a CJA 24 form or print it from the district court website at www.wiwd.uscourts.gov

Transcript Order Form (AO Form 435)

Use only if a transcript is requested on a JUDGE JOHN SHABAZ case. Click here to print form or contact Ryan Plender at (608) 261-5720 to obtain a copy.

2. Docket Sheet

This form lists all the pleadings, hearings, depositions, and transcripts filed in this case. To access the cases over the Internet you must first get a PACER account I.D. and password. Information about getting an account is available at the PACER Service Center web site www.pacer.psc.uscourts.gov Access the district court PACER site at www.pacer.wiwd.uscourts.gov.

3. Settlement Conference Program Form for the U.S. Court of Appeals, 7th Circuit

Rule 33 conferences are not conducted in pro se, immigration, social security, habeas corpus, prisoners' civil rights, sentencing and mandamus cases.

PLEASE REVIEW CIRCUIT RULE 10

This rule explains the preparation of the record that is sent to the appeals court. Also review the Federal Rules of Appellate Procedure & Seventh Circuit Rules. Their rules can also be obtained from their website at www.ca7.uscourts.gov

PLEASE REVIEW CIRCUIT RULE 3(c)(1)

This rule explains the DOCKETING STATEMENT.

PLEASE REVIEW CIRCUIT OPERATING PROCEDURE 10

This rule explains that documents sealed in the district court will become a public record on appeal unless sealed by that court or pursuant to statute or rule of procedure.

EXHIBITS

Counsel must ensure that exhibits to be included in the record that are not in the possession of the district court clerk are furnished to the clerk within ten days after the filing of the notice of appeal. Counsel will be responsible for sending bulky exhibits to the court of appeals. Please contact the clerk's office with any questions.

REFER QUESTIONS TO:	Marlene Olson	or	U.S. Court of Appeals
	Appeals Clerk		Seventh Circuit
	(608) 261-5712		(312) 435-5850

SEVENTH CIRCUIT TRANSCRIPT INFORMATION SHEET

PART I — Must be completed by party or party's attorney pursuant to Rule 10(b) of the Federal Rules of Appellate Procedure and Rule 11(a) of the Circuit Rules. The appellant must file this form with the court reporter within 10 days of filing the notice of appeal, whether transcript is being ordered or not. (FRAP 10(b)(1)) "Satisfactory arrangements with the court reporter for payment of the costs of the transcripts" must also be made at that time. (FRAP 10(b)(4)) (Note: Appellees as well as appellants are expected to use this form when ordering transcripts.)

Short Title	District	D.C. Docket No.
	District Judge	Court Reporter
<input type="checkbox"/> I am ordering transcript. <input type="checkbox"/> I am not ordering transcript, because: <input type="checkbox"/> The transcript has been prepared.		Sign below and return original and one copy to court reporter. Distribute remaining copies to Clerk of the District Court and opposing party, retaining one copy for yourself.

Indicate proceedings for which transcript is required. Dates must be provided:

	Date(s)
<input type="checkbox"/> Pre-trial proceedings. <i>Specify:</i> _____	_____
<input type="checkbox"/> Voir Dire	_____
Trial or hearing. <i>Specify:</i> _____	_____
<input type="checkbox"/> Opening statement	_____
<input type="checkbox"/> Instruction conference	_____
<input type="checkbox"/> Closing statements	_____
<input type="checkbox"/> Court instructions	_____
<input type="checkbox"/> Post-trial proceedings. <i>Specify:</i> _____	_____
<input type="checkbox"/> Sentencing	_____
<input type="checkbox"/> Other proceedings. <i>Specify:</i> _____	_____

Method of Payment: ☐ Cash ☐ Check or Money Order ☐ C.J.A. Voucher
 Status of Payment: ☐ Full Payment ☐ Partial Payment ☐ No Payment Yet

Signature: _____ Telephone No. _____
 Address: _____ Date: _____

PART II — Must be completed by Court Reporter pursuant to Rule 11(b) of the Federal Rules of Appellate Procedure. By signing this Part II, the Court Reporter certifies that *satisfactory arrangements for payment* have been made.

U.S.C.A. Docket No.	Date Order Received	Estimated Completion Date	Estimated Length
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Signature of Court Reporter: _____ Date: _____

NOTICE: The Judicial Conference of the United States, by its resolution of March 11, 1982, has provided that a penalty of 10 percent must apply, unless a waiver is granted by the Court of Appeals' Clerk, when a "transcript of a case on appeal is not delivered within 30 days of the date ordered and payment received therefor." The penalty is 20 percent for transcript not delivered within 60 days.

Copies to: Court Reporter, then sent to U.S.C.A. Clerk; District Court Clerk; and Service Copies.

AO 435 (Rev. 12/03)		Administrative Office of the United States Courts TRANSCRIPT ORDER <i>Please Read Instructions above</i>		FOR COURT USE ONLY DUE DATE:	
1. NAME		2. PHONE NUMBER		3. DATE	
4. MAILING ADDRESS		5. CITY		6. STATE	7. ZIP CODE
8. CASE NUMBER	9. JUDGE	DATES OF PROCEEDINGS 10. FROM 11.			
12. CASE NAME		LOCATION OF PROCEEDINGS 13. 14.			
15. ORDER FOR APPEAL CRIMINAL CRIMINAL JUSTICE ACT BANKRUPTCY NON-APPEAL CIVIL IN FORMA PAUPERIS OTHER					
16. TRANSCRIPT REQUESTED (Specify portion(s) and date(s) of proceeding(s) for which transcript is requested)					
PORTIONS		DATE(S)		DATE(S)	
VOIR DIRE				TESTIMONY (Specify Witness)	
OPENING STATEMENT (Plaintiff)					
OPENING STATEMENT					
CLOSING ARGUMENT (Plaintiff)				PRE-TRIAL PROCEEDING	
CLOSING ARGUMENT (Defendant)					
OPINION OF COURT					
JURY INSTRUCTIONS				OTHER (Specify)	
SENTENCING					
BAIL HEARING					
17. ORDER					
CATEGORY	ORIGINAL (Includes Free Copy for the Court)	FIRST COPY	ADDITIONAL COPIES	NO. OF PAGES ESTIMATE	COSTS
ORDINARY			NO. OF COPIES		
EXPEDITED			NO. OF COPIES		
DAILY			NO. OF COPIES		
HOURLY			NO. OF COPIES		
CERTIFICATION (18. & 19.) By signing below, I certify that I will pay all charges (deposit plus additional).				ESTIMATE TOTAL	
18. SIGNATURE				PROCESSED BY	
19. DATE				PHONE NUMBER	
TRANSCRIPT TO BE PREPARED BY				COURT ADDRESS	
ORDER RECEIVED	DATE	BY			
DEPOSIT PAID				DEPOSIT PAID	
TRANSCRIPT ORDERED				TOTAL CHARGES	
TRANSCRIPT RECEIVED				LESS DEPOSIT	
ORDERING PARTY NOTIFIED TO PICK UP TRANSCRIPT				TOTAL REFUNDED	
PARTY RECEIVED TRANSCRIPT				TOTAL DUE	

(Previous editions of this form may still be used)

DISTRIBUTION:

COURT COPY

TRANSCRIPTION COPY

ORDER RECEIPT

ORDER COPY

THE SETTLEMENT CONFERENCE PROGRAM U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Pursuant to Rule 33 of the Federal Rules of Appellate Procedure [\(1\)](#) and Circuit Rule 33, the Court conducts conferences with counsel and clients to encourage and facilitate the settlement of civil appeals. Rule 33 conferences are conducted in all types of civil appeals except pro se, immigration, social security, habeas corpus, prisoners' civil rights, sentencing, and mandamus cases. The Court spontaneously notices most eligible appeals for Rule 33 conferences. Attorneys for one or more parties may also request that a conference be conducted in any eligible case.

Counsel and clients are well-advised to explore opportunities for settlement at the appellate level. Regardless of how unlikely it may seem, the fact is that many cases can be settled at this stage, substituting a certain and acceptable outcome for the risk and expense of further litigation. The Court's Settlement Conference Office has assisted counsel in settling many appeals without unduly delaying the progress of those appeals which do not yield to settlement efforts. The following information is intended to assist practitioners and their clients in understanding how the Seventh Circuit's settlement conference program works and how they can make the best use of it to achieve favorable results.

> How do counsel learn that a Rule 33 conference will be conducted in their appeal? Counsel receive a Notice of Rule 33 Conference, which is an order of the Court, advising them of the date and time of the conference, whether it is to be in person or by telephone, and how they and their clients are expected to prepare.

> How can a Rule 33 conference be requested? Counsel are invited to request a Rule 33 conference by contacting the Settlement Conference Office, U.S. Court of Appeals for the Seventh Circuit, 219 S. Dearborn, Room 1120, Chicago, Illinois 60604-1705 (Tel. (312) 435-6883/Fax (312) 435-6888/E-mail: settlement@ca7.uscourts.gov). At the request of any party or parties in an eligible appeal, the Settlement Conference Office will schedule a Rule 33 conference if its calendar permits. Counsel are then advised by notice that a conference will be held.

> Do other parties have to be informed that a conference was requested? No. If a party prefers to keep its request confidential, the Settlement Conference Office will not disclose to other parties or to the Court that the conference was requested.

> Is participation in Rule 33 conferences optional? No. When a Rule 33 conference is scheduled, participation is mandatory.

> Are clients required to attend? Clients and insurance representatives are required to attend Rule 33 conferences whenever the Settlement Conference Office so directs. When clients or insurance representatives have not been directed to attend the initial conference, they must be available by phone - with full settlement authority - for the duration of the conference.

> **Is it mandatory to settle?** No. Whether to settle is ultimately for the parties and their counsel to decide. However, counsel and parties are required to participate with the utmost diligence and good faith. Experience shows that settlements can often be achieved when neither side thought it possible.

> **Who conducts Rule 33 conferences?** The Court has delegated the responsibility for conducting Rule 33 conferences to three full-time conference attorneys: [Joel N. Shapiro](#), [Rocco J. Spagna](#), and [Jillisa Brittan](#). All were civil litigators in private practice prior to their appointment by the Court.

> **Is there a fee for the services of the conference attorney?** No. The assistance of the Settlement Conference Office is available to appellate litigants at no charge.

> **Must each party's lead attorney attend the Rule 33 conference?** Yes. It is essential that each party be represented at the Rule 33 conference by an attorney who not only is conversant with the case but is the attorney on whose advice the party relies. If more than one attorney meets these criteria, either of them may represent the client in the Rule 33 conference.

> **How is it decided whether a Rule 33 conference will be conducted by telephone or in person?** When all participants reside in the Chicago metropolitan area, Rule 33 conferences are usually held in the Settlement Conference Office at the United States Courthouse. Otherwise, conferences are generally conducted by telephone. The telephone equipment used in these conferences accommodates up to six separate lines and enables the conference attorney to speak privately with any combination of participants. Experience indicates that telephone conferences are generally as effective as in-person conferences in fostering settlements.

> **Are in-person conferences ever held outside Chicago?** Because the resources of the settlement conference program are limited, in-person conferences cannot routinely be held throughout the Circuit. However, from time to time in-person conferences are conducted at locations other than Chicago. If the participants believe that an in-person conference outside Chicago would be more productive than a conference by telephone, they are welcome to suggest it.

> **Are Rule 33 conferences confidential?** Yes. The Court requires all participants to keep what is said in these conferences strictly confidential. Communications, oral and written, which take place in the course of Rule 33 proceedings may not be disclosed to anyone other than the litigants, their counsel, and the conference attorney.

> **Do judges of the Court of Appeals learn what has happened at a Rule 33 conference?** No. Participants in Rule 33 conferences, including the conference attorney, are forbidden to impart to any judge or other court personnel, in the Court of Appeals or elsewhere, what has been communicated in these conferences.

> **What occurs at a Rule 33 conference?** Rule 33 conferences are official proceedings of the Court but are off-the-record and relatively informal. Discussion is conversational rather than argumentative. The focus is on realistically assessing the prospects of the appeal, the risks and costs of further litigation, the interests of the parties, and the benefits each side can gain through settlement. The conference attorney ordinarily meets with counsel both together and separately. Settlement proposals

are discussed. A resolution may or may not be reached during the initial conference. Often, follow-up conferences or "shuttle" negotiations are conducted; letters or draft proposals may be exchanged. By the conclusion of the Rule 33 process, the parties will have either reached an agreement to settle or learned how far apart they are and what are the remaining obstacles to settlement.

> **Is discussion of settlement limited to the appeal itself?** Not necessarily. If settlement of the appeal will not dispose of the entire case, or if related litigation is pending in other forums, the parties are invited and encouraged to explore the possibility of a global settlement.

> **Is briefing deferred when a Notice of Rule 33 Conference is issued?** Briefing is usually postponed until after the initial conference. If further modification of the briefing schedule would be conducive to settlement, an order to that effect may later be entered.

> **What preparation is required of counsel?** In preparation for the initial Rule 33 conference, attorneys are required to consult rigorously with their clients and obtain as much authority as feasible to settle the case. Counsel must also review their legal and factual contentions with a view to being able to discuss candidly the prospects of the appeal and the case as a whole. If the conference attorney requests copies of pleadings, hearing transcripts, or other material in anticipation of the conference, counsel are expected to provide it promptly.

> **What is the role of the conference attorney?** Because the format of Rule 33 conferences is flexible and each appeal is dealt with on its own terms, the conference attorney plays a variety of roles. He or she acts as moderator, facilitator, and intermediary. The conference attorney serves as a neutral evaluator and a reality check. He or she may suggest terms of settlement. Without being coercive, the conference attorney acts as a determined advocate for settlement.

> **What can counsel expect of the conference attorney?** Before the initial conference, the conference attorney will have familiarized him or herself with the history of the litigation, the posture of the case, and the issues on appeal. During the conference, the conference attorney will seek additional information about the background of the dispute and the parties' interests, claims and defenses in order to explore all possibilities for a voluntary resolution. The conference attorney is strictly impartial. He or she does not advocate for any party and avoids making comments that could advantage one side or another in arguing the issues on appeal. The conference attorney will disclose any affiliation or prior representation of which he or she is aware that could call his or her neutrality into question. The conference attorney does not force any party to settle or to accept terms it is not willing to accept. While he or she urges parties to take advantage of opportunities to settle favorably, the conference attorney recognizes that settlement is not always possible.

> **How can counsel make best use of the Rule 33 conference to benefit their clients?**

Recognize that the Rule 33 conference is an opportunity to achieve a favorable outcome for your client. Without laying aside the advocate's responsibility, approach the conference as essentially cooperative rather than adversarial. Help your client make settlement decisions based not on overconfidence or wishful thinking, but on a realistic assessment of the case; not on emotion, however justified it may be, but on rational self-interest. Suggest terms of settlement that maximize the benefits of settlement for all parties. Take advantage of the opportunity to talk confidentially and constructively with counsel for the other parties and, if clients are present, to address them respectfully but

convincingly. Let the conference attorney know how he or she can help you obtain a satisfactory resolution. Be candid. Don't posture. Listen closely to what other participants have to say. Give the process a chance to work.

1. FRAP Rule 33 provides: "Appeal Conferences. The Court may direct the attorneys, and in appropriate cases the parties, to participate in one or more conferences to address any matter that may aid in the disposition of the proceedings, including the simplification of the issues and the possibility of settlement. A conference may be conducted in person or by telephone and be presided over by a judge or other person designated by the court for that purpose. Before a settlement conference, attorneys must consult with their clients and obtain as much authority as feasible to settle the case. As a result of a conference, the court may enter an order controlling the course of the proceedings or implementing any settlement agreement."

3/04